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4 Attorney for Defendant  
 5 B & B Management Group, LLC,  
 dba Bellach's Leather for Living

7 UNITED STATES DISTRICT COURT  
 8 NORTHERN DISTRICT OF CALIFORNIA  
 9 SAN JOSE DIVISION

10 SUSAN SANDELMAN, AS TRUSTEE  
 OF THE ESAN TRUST,

No. CV 08-00681 HRL

11 Plaintiff,

EX PARTE APPLICATION ON BEHALF  
 OF DEFENDANT B & B MANAGEMENT  
 GROUP, LLC, dba BELLACH'S  
 LEATHER FOR LIVING, erroneously sued  
 herein as B&B Property Management, LLC,  
 dba Bellach's Leather for Living FOR  
 RECONSIDERATION OF THE COURT'S  
 ORDER OF MAY 6, 2008 TAKING SAID  
 DEFENDANT'S MOTION FOR STAY OF  
 PROCEEDINGS OFF CALENDAR and  
 ORDER THEREON  
 Complaint Filed: January 29, 2008

12 v.  
 13 B&B PROPERTY MANAGEMENT, LLC,  
 dba BELLACH'S LEATHER FOR LIVING,  
 15 Defendant.

16 \_\_\_\_\_ /  
 Assigned Judge: Hon. Howard R. Lloyd

19 TO: THE HONORABLE HOWARD R. LLOYD:

20 Defendant, B & B Management Group LLC, erroneously sued herein as B&B Property  
 21 Management, LLC dba Bellach's Leather for Living ("moving party") hereby applies to the Court  
 22 ex parte for Reconsideration of the Court's Order of May 6, 2008 entered without notice to the  
 23 moving party, taking the moving party's Motion for Stay of the Proceedings off calendar. The  
 24 undersigned has advised counsel for the Plaintiff, that this Application was being made and a  
 25 copy of it has been send electronically to Counsel concurrently with the filing hereof.

26 This Application is made on the grounds that the Court has taken the moving party's  
 27 Motion for Stay off calendar under the mistaken understanding that a default has been properly  
 28 entered against the moving party. No default has been entered against the moving party. The

1 default entered by the Clerk of the Court was entered against B & B Property Management Group  
2 LLC. There is no such registered entity in the State of California. Although the moving party  
3 was never served in this action, it has voluntarily appeared in the action as the contracting party  
4 to the promissory note and security agreement sued upon by the Plaintiff. The contracting party  
5 under both the promissory note and security agreement set forth in the complaint and the  
6 attachments thereto, is the moving party, B & B Management Group LLC, a California limited  
7 liability company, **not** B & B Property Management Group, LLC, the party named in the  
8 complaint. The Order entered by the Court was entered without any notice to the moving party  
9 or providing the moving party an opportunity to present any opposition that the moving party  
10 would have to the proposed action of the Court.

11 Pursuant to the Court's inherent power to reconsider and modify its interlocutory orders  
12 prior to entry of any judgment (See Smith v. Massachusetts (2005) 543 U.S. 462, 475, 125 S.Ct.  
13 1129, 1139), the moving party respectfully requests that this Court reconsider its Order of May 6,  
14 2008, taking the moving party's motion for a stay set for hearing on May 13, 2008 at 10:00 a.m.;  
15 and resetting it at the Court's earliest convenience.

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17 Law Offices of Mikel D. Bryan, P.C.  
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20 Mikel D. Bryan  
Attorney for Moving Party

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23 ORDER

24 Having considered the Application of the defendant, B & B Management Group LLC for  
25 for Reconsideration of the Court's Order of May 6, 2008 Taking Said Defendant's Motion for  
26 Stay of Proceedings off Calendar and Order Thereon; the Court having reconsidered the Order of  
27 May 6, 2008 and the underlying basis therefor; and good cause appearing,

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1 IT IS HEREBY ORDERED that the Motion for Stay of B & B Management Group LLC  
2 is stored to the Motion Calendar of \_\_\_\_\_, 2008 at 10:00, or as soon thereafter as  
3 the matter may heard in Courtroom 2 of the above entitled Court, located at 280 First Street, San  
4 Jose, California 95113.

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Howard R. Lloyd  
United States Magistrate Judge

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